

REMARKS

The Official Action mailed February 18, 2009, has been received and its contents carefully noted. This response is filed within three months of the mailing date of the Official Action and therefore is believed to be timely without extension of time. Accordingly, the Applicant respectfully submits that this response is being timely filed.

The Applicant notes with appreciation the consideration of the Information Disclosure Statements filed on May 25, 2006; October 18, 2006; and February 23, 2008.

A Correction to Previously Submitted Information Disclosure Statements is submitted herewith. In the *Correction*, the Applicant requests that the attached PTO 1449 Form be initialed and that the previous erroneous citations be lined through.

Claims 27-36 and 47-56 are pending in the present application, of which claims 27 and 47 are independent. Claims 27, 30, 33 and 47 have been amended to better recite the features of the present invention. For the reasons set forth in detail below, all claims are believed to be in condition for allowance. Favorable reconsideration is requested.

Paragraph 5 of the Official Action rejects claims 27-36 and 56 under 35 U.S.C. § 112, second paragraph, asserting that "a material" in claims 27 and 30 and "the material" in claim 33 "is unclear as to which material applicant refers, that "an electron donor property" in claim 30 "is unclear as to which electron donor property applicant refers," that "an electron acceptor property" in claim 30 "is unclear as to which electron acceptor property applicant refers" (page 3, Paper No. 20090209). Although the objection is not entirely clear, the Official Action appears to be concerned that "material," "electron donor property" and "electron acceptor property" are positively recited more than once.

In response, claim 27 has been amended to recite "a second layer containing a first organic compound and a first material having an electron donor property for the first organic compound, the second layer being on the first layer; and a third layer containing

a second organic compound and a second material having an electron acceptor property for the second organic compound, the third layer being on the second layer,” claim 30 has been amended to recite “wherein the first material having the electron donor property is an alkali metal, an alkaline earth metal, or a rare earth metal” and claim 33 has been amended to recite “wherein the second material having the electron acceptor property is a metal oxide.”

Also, the Official Action asserts that “a part of the first layer comprises molybdenum oxide” in claims 36 and 56 “is unclear as how a layer can comprise two layers” (*Id.*). The Applicant respectfully disagrees and traverses the assertions in the Official Action. The Applicant respectfully submits that the present specification makes clear that a part of a first layer may comprise a single layer or multiple layers (see, for example, page 8, lines 21-23, and page 11, lines 13-15, and the like). Also, the Applicant respectfully submits that it is not, in fact, unclear to describe a part of a layer as comprising a material.

Therefore, the Applicant respectfully submits that amended claims 27, 30 and 33 and claims 36 and 56 as filed are definite. Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. § 112 are in order and respectfully requested.

Paragraph 12 of the Official Action rejects claims 27-32, 34 and 35 as anticipated by U.S. Patent No. 6,566,807 to Fujita. Paragraph 13 of the Official Action rejects claims 27-35 and 47-55 as anticipated by U.S. Patent No. 6,917,159 to Tyan. The Applicant respectfully submits that an anticipation rejection cannot be maintained against the independent claims of the present application, as amended.

As stated in MPEP § 2131, to establish an anticipation rejection, each and every element as set forth in the claim must be described either expressly or inherently in a single prior art reference. Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Independent claims 27 and 47 have been amended to recite a second layer being on a first layer and a third layer being on the second layer, which is supported in

the present specification, for example, by Figure 3A and the like. However, it appears that Fujita discloses that a second layer and a third layer are separated as shown in Figure 9; and it appears that Tyan discloses that a second layer and a third layer are separated as shown in Figure 6A. Therefore, the Applicant respectfully submits that Fujita or Tyan does not teach a second layer being on a first layer and a third layer being on the second layer, either explicitly or inherently.

Since Fujita or Tyan does not teach all the elements of the independent claims, either explicitly or inherently, an anticipation rejection cannot be maintained. Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. § 102 are in order and respectfully requested.

Paragraph 15 of the Official Action rejects claims 36, 47 and 56 as obvious based on the combination of Fujita and Tyan. The Applicant respectfully submits that a *prima facie* case of obviousness cannot be maintained against the independent claims of the present application, as amended.

As stated in MPEP §§ 2142-2144.04, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some reason, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some reason to do so found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art. "The test for an implicit showing is what the combined teachings, knowledge of one of ordinary skill in the art, and the nature of the problem to be solved as a whole would have suggested to those of ordinary skill in the art." In re Kotzab, 217 F.3d 1365, 1370, 55 USPQ2d 1313, 1317 (Fed. Cir. 2000). See

also In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); In re Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

Please incorporate the arguments above with respect to the deficiencies in Fujita and Tyan. The alleged combination of Fujita and Tyan does not cure the deficiencies in Fujita and Tyan. The Official Action relies on the alleged combination of Fujita and Tyan to allegedly teach that it would have been obvious to use a metal and a metal oxide as a material for first and second organic compounds, respectively (pages 8-9, Paper No. 20090209). However, Fujita and Tyan, either alone or in combination, do not teach or suggest that Fujita and Tyan should be modified to include a second layer being on a first layer and a third layer being on the second layer. Since Fujita and Tyan do not teach or suggest all the claim limitations, a *prima facie* case of obviousness cannot be maintained. Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. § 103(a) are in order and respectfully requested.

Should the Examiner believe that anything further would be desirable to place this application in better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number listed below.

The Commissioner is hereby authorized to charge fees under 37 C.F.R. §§1.16, 1.17, 1.20(a), 1.20(b), 1.20(c), and 1.20(d) (except the Issue Fee) which may be required now or hereafter, or credit any overpayment to Deposit Account No. 50-2280(0756-7707).

Respectfully submitted,



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